



DOC
BC
AR
D:H2/4
2000
C.3

BRITISH
COLUMBIA
e Andrew Petter
al and
nsible for

HATE/BIAS CRIME POLICY GUIDE

LEGISLATIVE LIBRARY
VICTORIA BC V8V 1X6

Revised September 2000



3 3298 00242 4647

TABLE OF CONTENTS

1 INTRODUCTION 1

2 DEFINITIONS 2

Hate/Bias Incident 2

Hate/Bias Crimes: An Overview 2

Hate Propaganda Offences 3

Criminal Code Sentencing Provisions:

 Crime with a Hate/Bias Motivation 4

Other Remedies 6

3 HATE CRIME TEAM 7

4 THE POLICE ROLE 8

Provincial Hate Crime Team – Police Members 8

Police Officer and Agency Guidelines 8

 1. Identification 9

 2. Investigation 10

 3. Victimization 10

 4. Notification 11

 5. Hate Crime Team 11

5 CROWN COUNSEL 12

Introduction 12

Charge 12

Bail Hearing 13

Alternative Measures 14

Sentencing 14

Monitoring 15

6 COMMUNITY LINKS 16

7 SUMMARY 17





INTRODUCTION

The Ministry of Attorney General, police agencies, and community groups recognize the importance of responding vigorously to crimes motivated by hate and bias. These offences are committed against individuals or groups because of personal characteristics such as race, religion, ethnicity, sexual orientation, or disability.

Hate crimes are offences that strike at the very cohesiveness of society. While all crimes are abhorrent, a hate crime is specifically committed to harm and terrify not only a particular victim, but the entire group of which the victim is a member. A unique characteristic of hate crimes is that often individuals and groups are targeted solely on the basis of who they are, not because of anything they have done. Implementing normal crime prevention measures is often not an effective tool, because victims of hate crime cannot prevent or change who they are.

The impact of these crimes extends beyond the initial victims and creates fear in the broader communities. These crimes can lead to social tensions between individuals, groups, the police and other government agencies, thereby furthering the destructive aims and objectives of those who encourage and promote hate.

Hate crimes create stress in the wider community. They are divisive, engender repetition by others, and incite retaliation. If left unchecked, these crimes can increase in their severity and may result in an escalation in social tensions between different groups that can destroy the harmony in our communities.

The response to this growing problem cannot be made by law enforcement agencies alone. Fighting hate/bias crime effectively relies on partnerships. Government, police, community organizations and individuals must be committed to working together to stem hatred in society.

The Hate Crime Team was created in 1996 with a mandate to ensure the effective identification, investigation and prosecution of crimes motivated by hate, and a Hate Crime Team office was opened in 1997 to carry out this task. The role of police and Crown Counsel in tracking hate-related crime is central to fulfilling the mandate of the Hate Crime Team.

This policy was developed by the Hate Crime Team, which includes members representing the municipal police departments, the RCMP, the Ministry of Attorney General (Criminal Justice, Policy, Planning and Legislation and Police Services) and the Ministry of Multiculturalism and Immigration. There was close consultation with many community groups, the B.C. Association of Chiefs of Police, and the Provincial Committee on Diversity and Policing. This document provides:

- a provincial definition of hate/bias crime
- a description of the roles of the police, victim services and Crown Counsel
- an outline of the links with the community that can help address crimes
- a process for addressing those incidents that are motivated by hate but are not criminal in nature.



DEFINITIONS

The Terms of Reference for the Hate Crime Team include a definition of hate crime based on s. 718.2 of the *Criminal Code*:

A hate/bias crime is a criminal offence committed against a person or property which is motivated by the suspect's hate, prejudice or bias against an identifiable group based on race, national or ethnic origin, language, colour, religion, sex, age, mental or physical disability, sexual orientation or any other similar factor.

RCMP "E" Division adopted this definition in the Division Operation Manual (reference IV.1.DD.2) in November 1997.

Hate/Bias Incident

A hate- or bias-related incident is an act or attempt by an individual or group directed at a person, property or public order that demonstrates intentional hostility to another because of race, religion, sexual orientation, place of origin, ethnicity, disability, gender, age or other identifiable characteristic.

It should be noted that most hate/bias incidents, and most racist, homophobic or sexist acts, while abhorrent in nature, are not *Criminal Code* offences. Consideration in these cases should be directed towards Human Rights and Civil Rights Protection legislation, harassment policies or community-building efforts through the Ministry of Multiculturalism and Immigration.

Hate/Bias Crimes: An Overview

The hate/bias crime provisions of the *Criminal Code* can be separated into two categories:

1. Hate propaganda offences where the offender advocates genocide, or communicates hatred of any identifiable group. The relevant areas of the *Criminal Code* are s. 318 and 319.
2. Any other offence motivated by hate or bias where the sentencing judge must consider this as an aggravating factor. Examples are:
 - (a) assault – "gay bashing"
 - (b) mischief – spray-painting a place of worship with racial or prejudicial comments
 - (c) threatening – letter or other threatening communication with biased or prejudicial overtones.

Hate/bias crimes are offences involving intimidation, harassment, physical force or threat of physical force against a person, family, property or supporter. There is no specific offence of committing a crime motivated by hate/bias. Hate/bias criminal offences such as assault or damage to property arise because they are motivated by hate or bias against victims because of who they are as persons, not for what they have done. When criminal activity is motivated by bigotry and intolerance of others, it is regarded as a serious matter. Even prior to the 1996 amendment of s. 718.2 in the *Criminal Code*, case law took such motivation into consideration as an aggravating factor on sentencing.

Hate Propaganda Offences

Hate propaganda offences are substantially different from hate/bias crimes (above), both in the nature of the offence and the types of groups identified. As offences, they are specifically set out in the *Criminal Code* in s. 318 and s. 319, which deal with advocating genocide, or public incitement of hatred, or the wilful promotion of hatred against an identifiable group as defined in s. 318(4).

s. 318 – Advocating Genocide

- (1) *Every one who advocates or promotes genocide is guilty of an indictable offence.*
- (2) “Genocide” means any of the following acts committed with intent to destroy in whole or in part any identifiable group, namely,
 - (a) *killing members of the group; or*
 - (b) *deliberately inflicting on the group conditions of life calculated to bring about its physical destruction.*

s. 318(4) – Identifiable Group

“Identifiable group” means any section of the public distinguished by colour, race, religion or ethnic origin.

s. 319(1) – Public Incitement of Hatred

Every one who, by communicating statements in any public place, incites hatred against any identifiable group where such incitement is likely to lead to a breach of the peace is guilty of an offence.

s. 319(2) – Wilful Promotion of Hatred

Every one who, by communicating statements, other than in private conversation, wilfully promotes hatred against any identifiable group is guilty of an offence.

Allegations under s. 319 rarely meet the high standard of proof that fit within the legal definitions and evidential requirements established in R. v. Keegstra [1990] 3 S.C.R. 397, 61 C.C.C. (3d) 1, 1 C.R. (4th) 129, however, in the case of R. v. Harding 45 O.R. (3d) 207, [1998] O.J.No. 2603, the allegations did meet all the requirements as established by Keegstra. The accused was charged with wilfully promoting hatred against an identifiable group by publishing, and distributing pamphlets and recorded telephone messages that: Muslims are a dangerous people capable of terrorism and great cruelty; Muslims are intolerant of other faiths and pose a threat; Muslims dishonestly masquerade as pacifists; and, all Muslims wish to take over Canada. The court found that the

Crown had proven beyond a reasonable doubt that the accused had clearly promoted hatred against an identifiable group. This case provides an excellent example of what a court requires before finding that such an offence was committed.

Criminal Code Sentencing Provisions: Crimes with a Hate/Bias Motivation

In 1996, in response to the public concerns regarding hate crimes, Parliament amended the *Criminal Code* to add s. 718.2 (a) (i), which states that:

A court that imposes a sentence shall also take into consideration the following principles:

- (a) A sentence should be increased or reduced to account for any relevant aggravating or mitigating circumstances relating to the offence or the offender, and without limiting the generality of the foregoing,*
 - (i) evidence that the offence was motivated by bias, prejudice, or hate based on race, national or ethnic origin, language, colour, religion, sex, age, mental or physical disability, sexual orientation or any other similar factor.*

Section 718.2 codifies what courts have identified in the past regarding offences motivated by bias, prejudice or hate and are regarded by the courts as an aggravating circumstance on sentencing.

Section 718.2 was used in sentencing in R. v. Miloszewski [1999] B.C.J. No. 2710 Surrey Provincial Court Registry No. 96687-03-D2 on November 16, 1999. The Provincial Court Judge sentenced the five individuals on a charge of manslaughter in the January 4, 1998 death of Nirmal Singh Gill. The five accused had broken into a fenced parking lot adjacent to a Sikh Temple with the intention of vandalizing automobiles parked there. All accused were under the influence of alcohol. The victim, a caretaker at the temple, came upon three of the accused in the parking lot and was attacked. The victim was later discovered forty metres from the Temple and taken to hospital where he died of his injuries. The Court found that the Crown had proven beyond any reasonable doubt that each of the accused had been motivated in their attack on the victim by bias, prejudice or hate based on Mr. Gill's race, national or ethnic origin, colour or religion. The Crown also proved this was an aggravating factor under s. 718.2 of the *Criminal Code*. The trial judge found that s. 718.2 is a direction to sentencing judges to give substantial weight to the aggravating factor as the section now reflects the will of Canadians as expressed by Parliament.

Section 718.2 was also used in R. v. Gabara, [1997] B.C.J.No.3090, Merritt Provincial Court Registry No.8829, on November 24, 1997. The accused was found guilty of assaulting the owner/operator of a convenience store. The accused frequently called the victim "George" though the victim objected and insisted his real name be used. The accused became angry, told the victim to leave Canada, and slapped him two or three times. The Crown submitted that the assault was motivated by racial bias. The accused denied the assault was racially motivated. He stated he had consumed alcohol before the assault took place, and that he was embarrassed by the proceedings and the publicity it created. He also submitted that the victim had language difficulties and may have misunderstood. The Provincial Court Judge found that racial bias was a motivating factor in the assault and that a fair minded person would find the conduct of the accused offensive, racist and demeaning if not shocking. The judge, in referring to s. 718.2, stated that there was a need to protect persons of racial minority or to protect people from offences in which there is an element of racism or prejudice. The judge stated that the application of the principles of denunciation and deterrence for conduct such as this would normally merit imprisonment.

R. v. Peers and Wilson, Vancouver Provincial Court, September 30, 1999, Information Number 100463, and Sechelt Provincial Court, January 18, 2000, Information Number 11518T, involved two cases arising out of the same incident on July 26, 1999. Three individuals were walking on Davie Street in Vancouver, drinking beer, and screaming obscenities and threats to harm gay people. Their actions frightened and annoyed people on the street. One person was offended by the steady stream of insults and sexually-biased slurs. The complainant followed the three individuals and approached Peers and Wilson. A conversation ensued and the complainant grabbed Wilson's shirt. Wilson stated it was not their intention to assault anyone and the complainant released Wilson's shirt. Shortly afterward, Peers challenged the complainant to fight, advancing toward him, and the complainant retreated, saying he did not want to have anything to do with him. Peers punched the complainant on the side of the head knocking his glasses off. The complainant continued to back up and Peers punched him on the nose, making it bleed. He punched the complainant a third time while the other two individuals attempted to restrain him. All three left the scene, but were found and arrested by the police. Peers plead guilty to assault, and Wilson plead guilty to causing a disturbance in a public place. Both were sentenced to a term of imprisonment.

Both provincial court judges were referred to s. 718.2, and both considered the nature of the offences as a serious aggravating factor in sentencing the accused. They also considered the offences motivated by bias, prejudice or hate based on sexual orientation.

Other offences which would fall within the scope of s. 718.2 include damaging personal and religious property, threats and criminal harassment. Racist spray painting or graffiti on private or public property would also be included in this category.

Other Remedies

Not all incidents of bigotry and intolerance for others can be dealt with as criminal offences. There are other avenues that may be taken to deal with their occurrence.

The Human Rights Code 1996 R.S.B.C. 210, prohibits discriminatory practices in the context of publications, employment, residential tenancy and the use of public facilities. Discrimination is prohibited on the basis of race, colour, ancestry, place of origin, religion, marital status, family status, physical or mental disability, and sex or sexual orientation.

As well, s. 7 of the Human Rights Code prohibits the publication, issue or display of discriminatory material in the form of statements, publications, notices, signs, symbols, emblems or other representations the expression of which indicate discrimination or an intention to discriminate against a person or a group or class of persons, or that is likely to expose them to hatred or contempt because of the race, colour, ancestry, place of origin, religion, marital status, family status, physical or mental disability, sex, sexual orientation or age of that person or that group or class of persons. The Code does not contain an offence provision and the *Offence Act* does not apply. The Human Rights Commission investigates and mediates complaints arising from breaches of the Code. The Commissioner of Investigation and Mediation can refer complaints to the Human Rights Tribunal to conduct hearings into complaints. The Tribunal has the authority to order the discrimination stopped and to order other remedies to the victim of discrimination.

The *Civil Rights Protection Act* S.B.C. c.12 is also an Act that might be considered as a remedy. It defines "prohibited act" as any conduct or communication interfering with the civil rights of a person or class of persons by promoting hatred or contempt, or superiority or inferiority, based on colour, race, religion, ethnic origin or place of origin. A "prohibited act" is a tort actionable without proof of damage. The Act has yet to be tested, despite being in force since 1981.



HATE CRIME TEAM

The role of the Hate Crime Team is to coordinate hate/bias-related investigations in the province by working with local police, sharing experiences and information, and communicating results from the centrally maintained data base.

The Team includes representatives from the RCMP, municipal police departments, the Ministry of Attorney General (Criminal Justice, Policy, Planning and Legislation, Police Services) and the Ministry of Multiculturalism and Immigration (Multiculturalism BC). In addition, there are full-time police officers, a community coordinator and support staff on the Team who provide a strong enforcement capability.

The Team has a mandate to maintain a system for tracking and analysis of data on hate-related offences, including hate propaganda offences and offences which include hate as a motivating factor, with timely access to the data for all police agencies. The officers on the Team collect relevant information on hate/bias incidents occurring in the province, and track relevant reports on a central database. A data analyst provides support for the Team in maintaining current information on the database. With the assistance of the Community Coordinator, the Team is building links with community groups to raise public awareness of incidents of hate crime.

The Hate Crime Team prepares status reports for public distribution, summarizing the activities of the Team including the level and nature of hate/bias incidents identified by police and community groups.



THE POLICE ROLE

The police are the front-line agency dealing with hate/bias crimes. It is important for all law enforcement personnel to be familiar with this problem and the special victimization issues.

Provincial Hate Crime Team – Police Members

The provincial Hate Crime Team has full-time police personnel. This recognizes the specialized and multi-jurisdictional nature of hate propaganda offences. The Team has the mandate to:

- assist in investigating all hate propaganda offences (s. 318 and s. 319) in the province with the cooperation of local police agencies
- assist local police agencies with investigations of other crimes motivated by hate or bias
- maintain a database of hate crime suspects and link this with other intelligence sources
- ensure local police agencies are informed of hate activities in their own and surrounding jurisdictions
- develop and deliver training for law enforcement personnel
- liaise with community groups
- participate in education and prevention programs
- collect and analyse all reports of hate crime
- liaise with the Ministry of Multiculturalism and Immigration and the BC Human Rights Commission to ensure that they are informed of hate/bias incidents that are not criminal in nature
- work with other federal and provincial police and other agencies in addressing hate/bias crime issues, including the challenge of pursuing investigations of hate on the internet
- develop and deliver victim service training and awareness.

Police Officer and Agency Guidelines

The following procedural guidelines have been developed to ensure appropriate response to incidents motivated by hate/bias.

The guidelines for all police agencies in BC are:

- assign officers to respond to all incidents or reported incidents of hate/bias crimes

- ensure that officers provide assistance to the victims in accordance with established victim services procedures
- ensure that all evidence is gathered as if it were for court purposes, including photographing, seizing and securing crime scene evidence
- ensure that all incidents are investigated and that investigators are informed of the high priority status
- ensure documentation of all incidents and that each is separately categorized as a hate/bias offence
- provide hate/bias crime reports to the Team's enforcement section immediately
- inform the police officers on the Team of community concerns or potential problems.

Four series of events specific to front-line police personnel are described below. They are Identification, Investigation, Victimization, and Notification.

1. Identification

Often, the first report of a hate/bias crime is made directly by telephone (911 or non-emergency), to the 1-800 Victims Information Line, to the Hate Crime Team, or to a community police station. A police officer must attend to a report of a hate crime, and officers encountering difficulty in determining the motivation of the suspect are encouraged to contact the Hate Crime Team. Before an incident is classified as a hate/bias-motivated crime, police officers should consider the following:

- any statements made by the suspect in custody that would indicate the crime was motivated by hate or bias toward the victim because of race, nationality, colour, religion, sex, age, mental or physical disability, or sexual orientation of the victim (as defined in s. 718.2)
- the absence of any apparent motive for the crime
- the use or display of any symbols, graffiti, comments, acts or gestures that are commonly associated with hate/bias towards the victim's group or are known to be used by organized hate groups (e.g., swastika)
- whether the offence coincided with a holiday, event or date of significance (religious, historical) to the victim's or suspect's group
- the perception of the victim or victim's community of the motivation behind the offence
- the perception of any witnesses to the offence
- any historical animosity that exists between the victim's group and the suspect's group
- whether the victim was in an area or place commonly associated with a particular group (e.g., a gay bar)

- whether the suspect has been previously involved in similar incidents, or is a member of an organized hate group or an organization that is known for its hate, bias or animosity towards members of the victim's group
- whether several incidents have occurred in the community with victims from the same group and by a similar manner and means for each offence
- whether the offence occurred at the same time, or shortly after, a hate group was active in the community (e.g., distribution of hate literature).

2. Investigation

When police attend a hate/bias crime scene it reflects the importance and seriousness of the incident. The investigation should be treated in this manner and proper securing of evidence, witness and victim statements, consultation with supervisors and other senior officers, and utilizing other police resources (e.g., identification, crime lab, media relations) must be considered.

Police officers investigating allegations in contravention of either s. 318 or s. 319(2) of the *Criminal Code* must keep in mind that no charge under these sections will be considered without the approval of the Attorney General. Section 319(1) is a dual offence and charges may be processed in the normal manner.

3. Victimization

Victimization issues should be a paramount consideration for the investigator. When a case is submitted to Crown Counsel for charge approval, investigators should consider s. 722 of the *Criminal Code*, which allows for individuals to submit victim impact statements. However, community-based organizations can provide relevant information on sentencing, including the prevalence and impact of particular offences on their community.

As individuals are targeted symbolically as representative of a group, all members of the group are potential victims. Through their malicious and violent behaviours, the perpetrators of these crimes attempt to communicate to targeted individuals and groups that they are not welcome to live peacefully in a particular community or neighbourhood.

The psychological trauma experienced by victims and the group they represent can be overwhelming. Past experiences of discrimination, coupled with the realization that changing

their behaviour will not decrease the likelihood of repeat attacks, lead to an increased sense of fear, isolation and vulnerability. Police officers should be cognizant of the *Victims of Crime Act*, which provides all crime victims with legal rights such as information on:

- victim services availability
- compensation for criminal injury
- the criminal justice system
- the status of the police investigation
- the administration of an offender's sentence
- the victim's right to privacy.

Information materials on victim services are available. Many police agencies also have victim service workers available, some on a 24-hour basis. If there are no local resources available or known, victims should be referred to the provincial Victims Information Line:

VICTIMS INFORMATION LINE
1-800-563-0808 (toll free)

4. Notification

Police officers can ensure that bias-motivated offences are properly dealt with by clearly advising Crown Counsel that the case involves, or may involve hate/bias crimes. In the Report to Crown Counsel, clearly state that the offence is hate/bias motivated, and include the reasons to ensure Crown Counsel properly identifies the case and gives it the care and consideration required. All requests for charges must be forwarded quickly for Crown Counsel consideration.

5. Hate Crime Team

In seeking assistance or advice, police officers are encouraged to consult with the officers on the Hate Crime Team:

HATE CRIME TEAM
Tel: (604) 660-2659
Fax: (604) 660-2606



CROWN COUNSEL

Introduction

Crown Counsel's role is to act on behalf of and in the public interest. Cases in which criminal activity is motivated by bigotry and intolerance of others are regarded as serious matters. When evidence establishes that there is a substantial likelihood of conviction, and that an offence was motivated by bias, prejudice or hate based on race, national or ethnic origin, language, colour, religion, sex, age, mental, or physical disability, sexual orientation, or any other similar factor, it is generally in the public interest to vigorously prosecute the offence. It is also in the public interest to seek to have the court take into consideration that motive as an aggravating factor in the sentencing of the accused.

Charge

The Crown Counsel charge approval standard requires that:

1. there be a substantial likelihood of conviction; and if so,
2. there is a public interest in the prosecution.

In almost all cases, the public interest considerations would apply in favour of prosecution. It is important to satisfy the requirement for substantial likelihood of conviction, since the ramifications and subsequent publicity of bringing forward an uncertain case resulting in an acquittal may be seen as exonerating or justifying the views of the perpetrator.

Crimes of violence directed at the victim because of race, national or ethnic origin, language, colour, religion, sex, age, mental, or physical disability, sexual orientation, or any other similar factor require Crown Counsel to take the position that these offences are of a serious nature and that the motivation for their occurrence should be treated as an aggravating factor in the sentencing of the accused.

Both s. 318 and s. 319(2) require the consent of the Attorney General prior to instituting proceedings. In accordance with the provisions of the *Crown Counsel Act*, this consent is to be obtained from the Assistant Deputy Attorney General. Any referrals to seek consent for s. 319(2) must take into consideration the statutory defences in s. 319(3). Section 319(2) of the *Criminal Code* creates an offence for communicating statements (other than in private conversation) that wilfully promote hatred against an identifiable group. An "identifiable group" means any section of the public distinguished by colour, race, religion or ethnic origin.

Charges of public incitement of hatred against any identifiable group, by communication of statements, where such incitement is likely to lead to a breach of the peace [s. 319(1)], do not require the consent of the Assistant Deputy Attorney General prior to the commencement of proceedings.

Section 318, advocating or promoting genocide, also requires the consent of the Assistant Deputy Attorney General prior to prosecution, but no statutory defences apply. Consent to prosecute should be sought where the evidence accords with the above charging standards.

The usual Crown requirements of written statements of witnesses, copies of the appropriate documents and/or recordings and other evidential requirements should be well in place before the file is considered for approval. As previously stated, it is not in the public interest to bring forward an uncertain or incomplete case that results in a stay of proceedings or an acquittal, because the results may be seen as exonerating or justifying the views of the perpetrator. As well, in cases like this, the accused not only can be portrayed as a martyr by being prosecuted for espousing these views, but also the accompanying media attention to such trials provides a wider publication of them.

Potential charges under s. 318 and s. 319 that satisfy the above conditions are to be sent to Administrative Crown Counsel for review. Regional Crown Counsel then consult with the Director of Special Justice Programs, the designated provincial contact and police liaison for hate crimes. The Regional Crown Counsel and the Director then determine:

- if the case will be referred to the Assistant Deputy Attorney General for consent to prosecute under s. 318 or s. 319(2), or
- if a prosecution is warranted under s. 319(1) in situations where no consent is required.

When a charge is recommended, the file and recommendation are forwarded to the Assistant Deputy Attorney General for a decision.

Bail Hearing

Charges approved under s. 318 or s. 319 should address the nature of the dissemination of the perpetrator's views in considering the type of process to bring the accused before the court. It may be necessary to consider a warrant for the arrest of the accused in order to obtain appropriate bail terms to prevent the repetition of the offence and to ensure that further similar dissemination ceases. Consideration should also be given to bail terms with no contact, reporting and area restrictions. If the charges concern an Internet crime, consideration should also be given to the retention of the computer and its data storage devices, or bail terms governing a prohibition of their use or restrictions on their use.

For crimes of violence motivated by hate or bias toward a member of an identifiable group, a warrant should be sought in order to obtain bail terms,

inter alia, to prevent contact with the victim and a repetition of the offence. Crown Counsel are required to advise victims of the progress of the case under the *Victims of Crimes Act*.

Alternative Measures

Alternative measures are options other than judicial proceedings under the *Criminal Code* or the *Young Offenders Act* which are used to deal with a person who is alleged to have committed an offence.

The use of alternative measures for hate crime propaganda or other hate-motivated offences should generally be considered inappropriate, given the nature and impact of these offences. The Ministry of Attorney General Alternative Measures Policy specifically provides that hate propaganda or hate bias offences should only be referred for alternative measures if there are exceptional circumstances. Regional Crown Counsel or their designate must also be consulted before alternative measures are approved. The policy also provides that hate propaganda offences may only be referred and approved for alternative measures by Regional Crown Counsel, with the written consent of the Assistant Deputy Attorney General. For both hate propaganda and hate-motivated offences, the following conditions must also be met:

- identifiable individual victims have been consulted and their wishes considered
- individual victims have been referred to victim services
- Crown Counsel has determined that the offender has no history of related offences or violence
- the offender accepts responsibility for the act or omission that forms the basis of the alleged offence
- the offence must not have been of such a serious nature as to threaten the safety or tolerance of the community.

Sentencing

Crown Counsel should consult with any identifiable victim before making a commitment in plea discussions that affects the victim or the sentence of the accused.

Crown Counsel should seek appropriate conditions of probation, including no-contact and reporting conditions, and what, if any, appropriate educational programs are available.

The victim should always be advised by Crown Counsel or victim services of the date of the sentencing hearing.

The nature of the charges and motivation should always be treated as an aggravating factor to be put forward before the court on sentencing. The history of the accused, any involvement in a previous similar activity, and the impact of the offence on society should also be emphasized as an aggravating factor on sentencing. Victim impact statements show the effect of the offence on the victim and should be presented to court on sentencing.

Crown Counsel or a victim services representative should explain the case outcome to the victim.

Monitoring

The Director of Special Justice Programs, Ministry of Attorney General, should be advised of the outcome of hate crime court cases. The Criminal Justice Branch maintains a program to monitor all charges reported to the Director of Special Justice Program.

The Hate Crime Team has a role in ensuring that details of court cases are communicated to all justice partners who need to know. This information is summarized in the Hate Crime Team status reports.



COMMUNITY LINKS

The impact of hate/bias incidents and discrimination affect communities in many ways. Communities may become targeted, labeled or dis-empowered by factors beyond their control. The need for public education as a prevention strategy and community mobilization as a response mechanism enables communities to respond effectively to hate. These strategies are strengthened to fight hate activities in its many forms when developed in collaboration with government, law enforcement and communities.

Multiculturalism BC, a division of the Ministry of Multiculturalism and Immigration, provides a link between the community and the Team. Multiculturalism BC's role on the Hate Crime Team is to:

- refer individuals to community-based organizations for support and assistance when dealing with issues of racial discrimination
- assist in the coordination of ongoing community consultations
- refer incidents of racism and hate occurring throughout the province to the Hate Crime Team
- support the development of resources at the community level to assist individuals and groups experiencing racial discrimination
- develop and acquire anti-racism resources for use by public institutions and community organizations to increase public education and awareness.



SUMMARY

The Ministry of Attorney General, police agencies, the Ministry of Multiculturalism and Immigration, and community groups recognize the importance of responding vigorously to crimes motivated by hate and bias. These offences are committed against individuals or groups because of personal characteristics, not because of who they are.

The role of police and Crown Counsel in investigating and prosecuting incidents of hate crime is key to the success of this program.

The community has a significant role in this partnership, and through this link with other criminal justice system components, the objective is to stop all incidents of hate and bias crime.

This policy guide and additional current information including status reports and electronic addresses for the Team may be found on the Ministry of Attorney General Web site at:

www.ag.gov.bc.ca/end_hate_crime

The Hate Crime Team may be contacted at:

HATE CRIME TEAM

Tel: (604) 660-2659

Fax: (604) 660-2606